

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of  
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

151797 CANADA INC.; JUDITH PENCER

Defendants.

Adv. Pro. No. 10-04631 (SMB)

**STIPULATION AND ORDER FOR DISMISSAL  
OF DEFENDANT AND CERTAIN CLAIMS**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), by and through his counsel, Baker & Hostetler LLP, and 151797 Canada Inc. and Judith Pencer (“Defendants”) by and through their counsel, Eiseman, Levine, Lehrhaupt & Kakoyiannis, P.C. (collectively, the “Parties”), hereby stipulate and agree to the following:

1. On December 1, 2010, the Trustee filed and served the Complaint [Doc. No. 1] against Defendants and Samuel Pencer.

2. On March 10, 2014, Defendants filed and served their Answer on the Trustee [Doc. No. 14].

3. On January 20, 2016, the Trustee voluntarily dismissed Samuel Pencer as a defendant [Doc. No. 21].

4. Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, as incorporated by Rule 7041 of the Federal Rules of Bankruptcy Procedure, the Parties hereby stipulate to a dismissal with prejudice of the Trustee's claims in Counts Two through Six of the Complaint.

5. Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, as incorporated by Rule 7041 of the Federal Rules of Bankruptcy Procedure, the Parties hereby stipulate to a dismissal without prejudice of the Trustee's claims against defendant Judith Pencer.

6. Except as set forth herein, this Stipulation has no effect on the Trustee's remaining Count One in the Complaint, which the Trustee stipulates is asserted solely against 151797 Canada Inc.

7. The Clerk of the Court is hereby directed to amend the caption to remove Judith Pencer, as reflected on Exhibit A to this Stipulation.

8. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

9. The Bankruptcy Court shall retain jurisdiction over this Stipulation.

Date: February 5, 2019  
New York, New York

**BAKER & HOSTETLER LLP**

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*Attorneys for Irving H. Picard, Trustee for the  
Substantively Consolidated SIPA Liquidation  
of Bernard L. Madoff Investment Securities  
LLC and the Estate of Bernard L. Madoff*

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**EISEMAN, LEVINE, LEHRHAUPT &  
KAKOYIANNIS, P.C.**

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*Attorneys for Defendants*

SO ORDERED:

/s/ STUART M. BERNSTEIN

Hon. Stuart M. Bernstein  
United States Bankruptcy Judge

Dated: **February 7, 2019**  
New York, New York

**EXHIBIT A**

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